



**CITY OF PUNTA GORDA, FLORIDA  
REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, JUNE 4, 2008 9:00 A.M.**

**COUNCILMEMBERS PRESENT:** Friedman, Albers, Wallace, Goldberg, Smith-Mooney

**CITY EMPLOYEES PRESENT:** Dave Drury, Finance; Rick Keeney, Public Works; Tom Jackson, Utilities; Phil Wickstrom, Human Resources; Dennis Murphy, Growth Management; Kathy Dailey, City Manager's Office; Butch Arenel, Police; Robert Hancock, Fire; City Attorney Levin; City Manager Kunik; City Clerk Foster

Mayor Friedman called the meeting to order at 9:00 a.m.

Invocation was given by Mr. Oscar Dorr, followed by the Pledge of Allegiance.

**PROCLAMATION/PRESENTATIONS**

**Bicycle to Work and Shops Day**

Mayor Friedman presented the proclamation.

**Shelley Barber, Finance Department – 20 Years Service**

City Manager Kunik presented the award, which was accepted by Ms. Shelley Barber.

Ms. Helen Meiller, Billing & Collections Supervisor, spoke of Ms. Barber's years with the City.

**NOTE: City Council recessed and reconvened as the Community Redevelopment Agency. (See corresponding minutes)**

**QUASI-JUDICIAL PUBLIC HEARINGS**

City Clerk Foster swore in all participants for the following quasi-judicial proceedings.

**SE-03-08 – A Special Exception request by Verizon Wireless, per Section 26-16.8., Page 26-185, of the City Code of Ordinances to allow a wireless communication facility consisting of antennas to be attached to the existing City water tower and associated ground based equipment, including the equipment shelter, generator and propane tank, located at 10401 Burnt Store Road, in a Public (P) zoning district, per Section 26-3.12.(e)(1), page 26-25.**

**Legal Description: Parcel ID# 0072521-000500-4, Parcel P-10-1, a/k/a 10401 Burnt Store Road. (Long legal description available at the Urban Design Division by**

calling (941) 575-3372, or City Hall Annex, 126 Harvey Street, 3rd Floor, Punta Gorda, FL 33950

City Attorney Levin presented the request.

Ms. Teri Tubbs, Zoning Official, explained the request was to lease property for a tower to improve service in that area. She stated a technical review had been undertaken with all departments signing off on the project. She drew members' attention to the concerns raised by the Planning Commission with regard to liability and wind loading issues.

City Attorney Levin advised a lease had been negotiated which had protective measures included within, adding same would be presented to members for approval at a later date.

**Mayor Friedman** inquired as to the concerns regarding the location of the propane tank.

Mr. Dennis Murphy, Growth Management Director, stated same would be addressed through the building permit process. He noted same was necessary for battery backup.

**Councilmember Wallace** inquired as to the lease amount.

Mr. Murphy responded \$2,000 per month.

Discussion ensued with regard to whether same should be bid out due to their only being room for one carrier.

Mr. David Felton, Verizon, responded same did go out to bid. He opined there was room on the tower for additional carriers.

Ms. Marion Pace, Procurement Manager, stated the City had requested proposals for a cellular carrier to locate an antenna on the water tower. She stated there was room for another carrier to locate a "necklace" type antenna on the tower.

Ms. Lynne Matthews, Planning Commission, stated their review drew many concerns as there were several issues that could not be answered, thus they gave only conditional approval. She stated they were told there would only be one carrier located on the tower, adding the concerns related to the propane tank and wind loading were conditions of their recommendation for approval.

Councilmember Smith-Mooney **MOVED** to close the public hearing, **SECONDED** by Councilmember Goldberg.

**MOTION UNANIMOUSLY CARRIED.**

**Councilmember Smith-Mooney** inquired if the City would perform a structural analysis of the tower.

Mr. Tom Jackson, Utility Director, responded Verizon's structural engineer would be certifying the installment of same, noting an independent study would cost the City between \$20,000 and \$45,000.

Discussion ensued with regard to lease terms.

**Councilmember Goldberg** pointed out the tower would provide better service to the community.

Councilmember Goldberg **MOVED** approval, **SECONDED** by Councilmember Smith-Mooney.

**MOTION UNANIMOUSLY CARRIED.**

**AP-01-08 – Appeal of Administrative Decision of the Zoning Official per the City Code of Ordinances, Chapter 26-16.2., regarding replacement of individual non-conforming signs on an existing non-conforming sign structure located at Block 35, Lots 2, 3, 4, 5, and 6, PUG a/k/a 205-225 Wood Street.**

**Continued from May 21, 2008 – Withdrawn by Applicant**

**Mayor Friedman** recalled he had spoken to the applicants, stating the appeal had been dropped and a variance applied for. He inquired as to members' views, opining in this instance, the appeal was warranted. He explained if others felt the same, it would be more expedient to proceed with the appeal than go through the variance process.

**Councilmember Smith-Mooney** countered she felt members agreed a variance was the proper mechanism.

**Mayor Friedman** disagreed, saying he felt the appeal could be granted, thus not prolonging the process.

City Attorney Levin advised whatever the reason, the applicant had withdrawn the appeal, thus the Council lacked jurisdiction to give further consideration to same.

Mr. David Hilston, Urban Design Manager, pointed out there were 15 years of consistency as to how signs were permitted, which was what was being appealed.

City Attorney Levin stated if there was a consensus of members based on the information provided in the packet that they were inclined to agree with the applicant, the applicant could be so advised.

**Mayor Friedman** explained the entire matter was predicated by the hurricane which destroyed more than 50% of the sign; however, more than 98% of the cost of the sign was still existent, thus there was a difference in opinions.

Mr. Hilston stated same was the manner in which permitting was addressed following the hurricane.

**Councilmember Albers** concurred with Mayor Friedman in that the majority of the sign existed, adding he felt the smaller signs within same should be allowed.

**Councilmember Smith-Mooney** inquired if the appeal process would require staff to evaluate all signs by cost in the future.

Ms. Tubbs explained staff's opinion was based on the requirements of the Florida Building Code and the City's regulations wherein individual sign faces were considered as individual signs. She further explained she had no other way to look at same, recommending the variance process.

**Councilmember Smith-Mooney** voiced support of the variance process.

**Mayor Friedman** inquired if the permitting process for houses after the hurricane were based monetarily.

Ms. Tubbs responded sign permitting was different in that each sign face had specific requirements which must be met to obtain permitting. She noted those procedures had been consistently followed, thus she could not vary from same in this instance.

City Attorney Levin stated he first viewed the sign as being the main structure with individual signs within; however, with each sign being considered as an individual sign requiring a permit, more than 50% of the sign had been destroyed.

**Councilmember Albers** inquired if the variance request would allow the same sign as before the hurricane.

Ms. Tubbs responded affirmatively.

#### **ORDINANCE/RESOLUTION**

#### **No Public Hearing Required**

**AX-01-08 – An Ordinance of the City of Punta Gorda, Florida, Annexing within the Corporate Area of the City of Punta Gorda, property described on Exhibit A, Parcel No. 0072355-000000-0 Tract No. 3, being an unplatted tract of land located in that part of the Southwest ¼ of the Southwest ¼ of Section 21 and the Northwest ¼ of the Northwest ¼ of Section 28, Township 41 South, Range 23 East, which lies North of Alligator Creek and South and West of the Seaboard Coastline Railroad, as reflected by the Map of Tamiami Park, recorded in Plat Book 1, Page 28 of the Public Records of Charlotte County, Florida, less and except State Road No. 45 (U.S. Highway Route 41) Right-of-Way and State Road No. 765 (Burnt Store Road), containing 2.36 acres, more or less, and commonly known as “Gator Apartments”, 10050 Burnt Store Road, in accordance with the Voluntary Annexation provisions of Section 171.044 Florida Statutes; Redefining the Boundary Lines of said City in conformance therewith; Amending the Official Boundary Map of the City of Punta Gorda, Florida; providing for conflict and severability and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Councilmember Smith-Mooney **MOVED** approval, **SECONDED** by Councilmember Wallace.

**MOTION UNANIMOUSLY CARRIED.**

**CP-01-08 – An Ordinance of the City of Punta Gorda, Florida, Amending the Local Comprehensive Plan Future Land Use Map from Commercial Corridor/County to Commercial/City on property described on Exhibit A, Parcel No. 0072355-000000-0 Tract No. 3, being an unplatted tract of land located in that part of the Southwest ¼ of the Southwest ¼ of Section 21 and the Northwest ¼ of the Northwest ¼ of Section 28, Township 41 South, Range 23 East, which lies North of Alligator Creek and South and West of the Seaboard Coastline Railroad, as reflected by the Map of Tamiami Park, Recorded in Plat Book 1, Page 28 of the Public Records of Charlotte County, Florida, less and except State Road No. 45 (U.S. Highway Route 41) Right-of-Way and State Road No. 765 (Burnt Store Road), containing 2.36 Acres, more or less, and commonly known as “Gator Apartments”, 10050 Burnt Store Road; providing for conflict and severability and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Councilmember Albers **MOVED** approval, **SECONDED** by Councilmember Goldberg.

**MOTION UNANIMOUSLY CARRIED.**

**Z-01-08 – An Ordinance of the City of Punta Gorda, Florida, Rezoning Property Described on Exhibit A, Parcel No. 0072355-000000-0 Tract No. 3, being an unplatted tract of land located in that part of the Southwest ¼ of the Southwest ¼ of Section 21 and the Northwest ¼ of the Northwest ¼ of Section 28, Township 41 South, Range 23 East, which lies North of Alligator Creek and South and West of the Seaboard Coastline Railroad, as reflected by the Map of Tamiami Park, recorded in Plat Book 1, Page 28 of the Public Records of Charlotte County, Florida, less and except State Road No. 45 (U.S. Highway Route 41) Right-of-Way and State Road No. 765 (Burnt Store Road), containing 2.36 acres, more or less, and commonly known as “Gator Apartments”, 10050 Burnt Store Road, from Commercial-Tourist/County (CT/County) to Highway Commercial/City (HC/City); providing for conflict and severability and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Councilmember Goldberg **MOVED** approval, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

**An Ordinance of the City of Punta Gorda, Florida, amending Chapter 23 of the City Code of Ordinances, "Traffic", Article II, "Parking Areas", deleting Sections 23-12 and 23-13.1; amending Section 23-13 deleting subsections that no longer apply and amending Section 23-14(a) and (c), increasing the penalty and costs for violations; providing for conflict and severability and providing an effective date.**

**SECOND READING**

City Attorney Levin read the ordinance by title.

Councilmember Goldberg **MOVED** approval, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

**An Ordinance of the City of Punta Gorda, amending the City of Punta Gorda Firefighters' Retirement System, as adopted by Ordinance No. 879-87, as subsequently amended, is hereby further amended by amending Section 6, Benefit Amounts and Eligibility; repealing all ordinances in conflict herewith and providing an effective date.**

**SECOND READING**

Mayor Friedman announced a request to continue this to June 18, 2008.

Councilmember Smith-Mooney **MOVED** to continue to June 18, 2008, **SECONDED** by Councilmember Wallace.

**MOTION UNANIMOUSLY CARRIED.**

**CONSENT AGENDA**

Councilmember Smith-Mooney referenced the litigation report, noting claims were being made against the Police Department. She asked if same was a trend or specific to the City, in which case it should be addressed.

Councilmember Albers **MOVED** approval of the consent agenda, **SECONDED** by Councilmember Goldberg.

**MOTION UNANIMOUSLY CARRIED.**

**A. CITY CLERK'S OFFICE**

1. Approval of Minutes: Regular Meeting of May 21, 2008
2. A Resolution of the City Council of the City of Punta Gorda, Florida, disbanding the Beautification Committee.
3. A Resolution of the City Council of the City of Punta Gorda, Florida, approving amended bylaws governing the function and procedures of the Revitalization Committee.

**B. LEGAL DEPARTMENT**

1. Monthly litigation report

2. Statement of the Law Firm of Brendan Bradley, P.A., for services rendered as attorney to the Code Enforcement Board dated May 15, 2008 in the amount of \$150.00
3. Invoice of City Attorney in the amount of \$10,312.50 for services rendered through May 29, 2008.

**C. CITY MANAGER'S OFFICE**

1. Adding "Discussion of Multi-Use Asphalt Bike Path/Trail - US 41 to Babcock-Webb Wildlife Management Area" item to Joint City/County Meeting Agenda

## **D. GROWTH MANAGEMENT**

1. Charlotte County-City of Punta Gorda Metropolitan Planning Organization Transportation Improvement Program (TIP) Fiscal Years 2008/2009 through 2012/2013 Amendment Request

### **UNFINISHED BUSINESS**

#### **Alternative solution for the City's Recycled Oil Operation**

Ms. Pace explained same was being proposed as a cost savings measure due to difficulties and costs regarding the Department of Environmental Protection (DEP) and Environmental Protection Agency (EPA) compliance requirements. She mentioned instances where oil was dropped off at the gate after hours and on weekends, which could present a danger. She concluded both Auto Zone and Advanced Auto Parts were located within the City limits and accepted used oil.

**Councilmember Goldberg** mentioned he had taken used oil to both locations.

**Councilmember Albers** spoke favorably toward same.

Councilmember Albers **MOVED** approval, **SECONDED** by Councilmember Smith-Mooney.

**MOTION UNANIMOUSLY CARRIED.**

### **RECOMMENDATIONS FROM CITY OFFICERS**

#### **CITY MANAGER**

City Manager Kunik commented on his recent trip to Holland and Belgium, noting the different philosophy toward bicycles. He then mentioned the sign inventory underway at this time, noting both areas he had traveled to had few signs due to the pedestrian and bicycle orientation.

### **BOARDS AND COMMITTEES**

#### **Announcement of Vacancies**

Board of Zoning Appeals - Alternate

City Clerk Foster announced the vacancy.

Planning Commission

City Clerk Foster announced the vacancy.

#### **Nominations**

General Employees' Pension Board

Councilmember Smith-Mooney **MOVED** to nominate and appoint Mr. Totten, **SECONDED** by Councilmember Albers.

**MOTION UNANIMOUSLY CARRIED.**

Planning Commission

Councilmember Smith-Mooney **NOMINATED** all interested parties.

## **Appointments**

### **Building Board**

Voting forms were distributed.

City Attorney Levin announced Mr. Cavanaugh had received the most votes and was therefore appointed to the Building Board.

## **POLICY & LEGISLATION**

**FRIEDMAN:** Requested an update at the next meeting on the off-line reservoir and funding for same.

- Mentioned the County's water study, wherein pumping stations and lift stations were contemplated within the City to service eastern portions of the County. He suggested the City and County work together toward a prudent solution which may include the County's use of the City's new reservoir.

**Councilmember Wallace** concurred, suggesting the City meet with the Southwest Florida Water Management District (SWFWMD) with regard to their future plans.

**Mayor Friedman** reiterated the City and County working in conjunction with each other may place both in a better position for SWFWMD funding. He requested same be added to the agenda for the upcoming joint meeting.

**WALLACE:** Inquired as to the use for the second floor of the courthouse, noting same had been open for some time.

City Clerk Foster advised the Supervisor of Elections would be using the courtroom for early voting for the upcoming election.

**Councilmember Wallace** then requested status reports be provided from Enterprise Punta Gorda, opining members were not getting very much feedback from same.

**Councilmember Smith-Mooney** explained the Enterprise Punta Gorda board held discussions regarding accountability, noting reports would be provided to the board beginning with their next meeting. She advised same would provide the information desired by City Council and would be made public as same was funded by tax dollars.

**Chairman Friedman** requested Councilmember Smith-Mooney relay members' concerns as the representative on that board.

**Councilmember Albers** concurred measurable objectives and accomplishments should be provided to determine the success of the endeavor.

**SMITH-MOONEY:** Recalled previous discussions related to fertilizer safety, noting the County had adopted an ordinance while the City opted to utilize an educational program. She questioned the status of same.

City Manager Kunik responded the Assistant City Manager and Utility Director were working with SWFWMD and Charlotte Harbor Environmental Center with regard to

promotional, educational material which should be available before the end of the year.

**CITIZENS' COMMENTS**

Mr. Steve Fabian suggested consideration be given toward the ability to sell fill from construction of the reservoir as a part of the discussion with the County.

Mr. Jackson advised a public hearing on the City's permit application would be held Friday, June 6, 2008, noting staff's recommendation was for approval.

The meeting was adjourned at 11:37 a.m.

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Mayor

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City Clerk